

City Council Chambers 3300 Capitol Avenue Fremont, California

City Council

Bob Wasserman, Mayor Anu Natarajan, Vice Mayor Bob Wieckowski Bill Harrison Suzanne Lee Chan

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Harvey E. Levine, City Attorney
Melissa Stevenson Dile, Deputy City Manager

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Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Michael Rich, Human Resources Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

- 1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
- 2. Consent Calendar
- 3. Ceremonial Items
- 4. Public Communications
- 5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
- 6. Report from City Attorney
- 7. Other Business
- 8. Council Communications
- 9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

Agenda and Report • Fremont City Council Meeting • April 14, 2009



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak. Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

The City Council Agendas may be accessed by computer at the following Worldwide Web Address: www.fremont.gov

Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk

City of Fremont

3300 Capitol Avenue, Bldg. A

Fremont, California 94538

Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

AGENDA FREMONT CITY COUNCIL REGULAR MEETING APRIL 14, 2009 COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A 7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 Motion to Waive Further Reading of Proposed Ordinances (This permits reading the title only in lieu of reciting the entire text.)
- 2.2 Approval of Minutes None.

2.3 FREMONT LANDSCAPING MAINTENANCE DISTRICT 88

Adoption of Resolutions Ordering the Preparation and Filing of the Annual Engineer's Report for Landscaping Maintenance Assessment District 88; Approving the Report and Stating the City Council's Intention to Levy Assessments for District 88 for Fiscal Year 2009/10

Contact Person:

Name: Andrew Russell Norm Hughes Title: Senior Civil Engineer City Engineer

Dept.: Community Development Community Development

Phone: 510-494-4534 510-494-4723

E-Mail: arussell@fremont.gov nhughes@fremont.gov

RECOMMENDATION: Adopt resolutions:

- 1. Ordering the Preparation and Filing of the Annual Engineer's Report for Landscaping Assessment District 88 for Fiscal Year 2009/10.
- 2. Stating the Intent of the City Council of the City of Fremont to Levy and Collect Assessments for Fremont Landscaping Assessment District 88 for Fiscal Year 2009/10.

2.4 ON-CALL GEOTECHNICAL PEER REVIEW SERVICES CONTRACTS

Award Contracts for On-Call Geotechnical Peer Review Services to Cotton, Shires & Associates, Inc., and Pacific Geotechnical Engineering

Contact Person:

Name:Diana CangcoNorm HughesTitle:Engineer IICity Engineer

Dept.: Community Development Community Development

Phone: 510-494-4733 510-494-4748

E-Mail: dcangco@fremont.gov nhughes@fremont.gov

RECOMMENDATIONS:

- 1. Authorize the City Manager or his designee to execute Master Service Agreements with Cotton, Shires & Associates, Inc., and Pacific Geotechnical Engineering for on-call geotechnical peer review services in an amount not to exceed \$300,000 for three years.
- 2. Authorize the City Manager or his designee to exercise the option to renew each agreement, at an appropriate time, for up to two additional one-year terms with an amount not-to-exceed \$100,000 per one-year term, provided the City Manager or his designee determines that the consultant has been responsive to the City's needs and the quality of work has been satisfactory.

3. CEREMONIAL ITEMS

3.1 Proclamation: Earth Day, April 22, 2009

4. PUBLIC COMMUNICATIONS

4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – None.

PUBLIC FINANCING AUTHORITY - None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

7.1 RAILROAD QUIET ZONE

Authorization to Proceed with Establishing a Railroad Quiet Zone at the Walnut Avenue Crossing

Contact Person:

Name: David Huynh Jim Pierson Title: Senior Transportation Engineer Director

Dept.: Transportation and Operations Transportation and Operations

Phone: 510-494-4484 510-494-4722

E-Mail: dhuynh@fremont.gov jpierson@fremont.gov

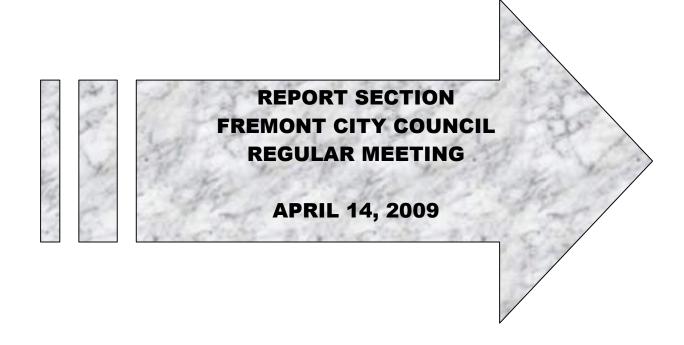
RECOMMENDATIONS:

- 1. Authorize staff to include the Walnut Avenue crossing into the process to establish quiet zones at the Stevenson Boulevard crossing and the Nursery Avenue crossing as described herein, following the requirements as established in 49 CFR Parts 222 and 229, Use of Locomotive Horns at Highway-Rail Grade Crossings.
- 2. Transfer \$149,000 from 6091612 6431 (Risk Management General Liability fund) and appropriate to 501 PWC 8604 (Quiet Zone Study).

8. COUNCIL COMMUNICATIONS

- 8.1 Council Referrals None.
- 8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



*2.3 FREMONT LANDSCAPING MAINTENANCE DISTRICT 88

Adoption of Resolutions Ordering the Preparation and Filing of the Annual Engineer's Report for Landscaping Maintenance Assessment District 88; Approving the Report and Stating the City Council's Intention to Levy Assessments for District 88 for Fiscal Year 2009/10

Contact Person:

Name: Andrew Russell Norm Hughes Title: Senior Civil Engineer City Engineer

Dept.: Community Development Community Development

Phone: 510-494-4534 510-494-4723

E-Mail: arussell@fremont.gov nhughes@fremont.gov

Executive Summary: Each year, the City levies annual assessments within Landscaping Assessment District 88 for public landscape maintenance. This District currently consists of forty-seven zones. These zones encompass subdivision tracts that were approved by the City without homeowners' associations (HOA). This district provides the required maintenance of public landscaped areas in lieu of HOA fees. State law requires two Council meetings to complete the annual assessment process. At this first meeting, staff recommends the City Council adopt a resolution ordering the preparation and filing of the enclosed annual Engineer's Report detailing calculations of the annual assessments and declaring an intent to levy and collect annual assessments at this first meeting. The resolution sets a public hearing on the proposed levy for June 9, 2009. If the City Council approves the levy at the June 9th meeting, the approved assessments will be forwarded to Alameda County for inclusion in property tax bills.

BACKGROUND: Both levies of ongoing annual assessments and establishment of new landscaping assessment districts are governed by the Landscaping and Lighting Act of 1972. This Act allows the City to levy and collect assessments for the purpose of funding installation, maintenance, and servicing public landscaping and lighting improvements. The amount of the assessments levied on each parcel of land is based on the special benefit the parcel receives from the improvements. The County collects the assessment with property taxes and transfers the funds to the City. The City Council formed Fremont Landscaping Assessment District 88 in December 1988. This is a Citywide district that allows the creation of small landscape maintenance zones as a condition of approval of individual subdivision maps. It ensures ongoing maintenance of public landscaping improvements that are in or adjacent to the subdivisions and that complement their appearance. Each year the City establishes the amount of money needed to maintain the public landscaping for each zone, and levies an assessment on each lot in the zone sufficient to pay this amount. Formation of new zones (which begin as separate landscape assessment districts) and annexation into the Citywide District 88 is required when a developer does not form a homeowners association to maintain public landscaping required as a condition of tract approval.

The City must also comply with the requirements of Proposition 218 as they relate to this process. The voters adopted Proposition 218 in November 1996. Generally, Proposition 218 and its implementing legislation allow property owners to defeat, by majority protest, increases in assessments for any zone within the District or the formation of any new assessment district or zone. There are presently forty-seven zones in District 88. On June 24, 1997, the property owners in the District's then existing Zones 1 through 37 (with the exception of Zones 18 and 22) allowed Maximum Assessments to be levied. In

subsequent years, property owners allowed the formation of Zones 38 through 47 and the levy of Maximum Assessments for them. Those zones have been annexed into District 88. Thus, District 88 includes Zones 1 through 17, 19 through 21, and 23 through 47. District 88 does not include former Zones 18 and 22, for which property owners established majority protests in 1997. Zone 45 (Tract 7471) and Zone 47 (Tract 7442) were formed and annexed into the district in previous years and will be assessed for the first time with this year's tax bill. The Maximum Assessments for each zone, and the amount of the proposed levy for this year, are shown in the Engineer's Report, Exhibit A. None of the existing zones is proposed for an assessment increase that would exceed the maximum assessment approved for it on or after June 24, 1997.

DISCUSSION:

Annual Assessment for Existing Zones in District 88: In order to start proceedings for levying the ongoing annual assessment for District 88, the City Council must adopt two resolutions: The first resolution orders preparation of an Engineer's Report detailing calculation of the proposed annual assessment. The second resolution accepts and approves the Engineer's Report (which the City Council has received prior to this meeting and which the City Council may modify before approving), states the City Council's intent to levy and collect annual assessments, and sets a public hearing date of June 9, 2009.

Notice of the public hearing will be given by publication. At the hearing, the Council must consider oral and written protests to the assessment. However, the proposed zone assessments do not exceed the maximums allowed in 1997 for then existing zones or for new zones created in subsequent years. Therefore, property owners cannot defeat the proposed assessments by establishing a majority protest.

New Assessment Districts: No new zones are proposed for this 2009/10 fiscal year.

Engineer's Report: Each year since the inception of the Landscaping Assessment District, staff has prepared and submitted an Engineer's Report to the City Council. The City Engineer has prepared the report for fiscal year 2009/10. For each zone, the Engineer's Report lists the expected costs (including a reasonable contingency) for the new fiscal year and a carryover cost, i.e., sufficient funds to pay the first six months of maintenance cost because assessments are not collected by the County until property tax bills become due. The City's and the County's administrative costs in imposing the assessment are also included. The total of these cost items is the gross assessment. A credit is then applied to each zone, which consists of the projected zone balance as of the end of the current fiscal year less a reserve fund. The gross assessment less the credit for each zone is divided among its property owners to establish the annual net assessment for each property. The reserve fund formula is intended to "smooth" out large increases or decreases in the annual assessments. Generally, decreases in assessments have been limited to 10% while increases have been limited to a maximum of 20%.

Forty-one zones will be assessed in fiscal year 2009/10. The assessments for fiscal year 2009/10 have increased for nine zones, decreased for eleven zones and stayed the same for nineteen zones. Of the nine zones to increase, three exceed the 20% goal. In these zones, the reserve fund was not sufficient to offset unanticipated maintenance and water costs as a result of vandalism. Several zones were victim to the theft of irrigation components due to higher commodity prices for brass and copper.

Two zones are being assessed for the first time and will be assessed at the maximum assessment. All of the assessments proposed for an increase are lower than the maximum annual assessments approved on or after June 24, 1997.

The annual assessments per lot differ considerably among the zones because of the differing size and character of landscaped areas and the number of lots in the zone. In previous years, the City Council took special action on Zone 2 (nine lots in Tract 5847), Zone 6 (eight lots in Tract 5950), Zone 12 (nine lots in Tract 5558), and Zone 16 (seven lots in Tract 6121) to allow the homeowners in these zones to take responsibility for the landscape maintenance themselves. This action foregoes the assessment of these zones as long as the homeowners are properly maintaining the landscaping. The homeowners in these four zones are maintaining the landscaping in a satisfactory manner.

Pages 34 through 36 of the Engineer's Report list the previous and proposed assessments for the existing forty-one zones.

ENCLOSURES:

- Exhibit A Engineer's Report for Fremont Landscaping Assessment District 88, Zones 1 through 47 (excluding Zones 18 and 22)
- Exhibit B A Resolution of the City Council of the City of Fremont Ordering the Preparation and Filing of the Annual Engineer's Report for Landscaping Assessment District 88 for Fiscal Year 2009/10.
- Exhibit C A Resolution of the City Council of the City of Fremont Stating the Council's Intent to Levy and Collect Assessments for Landscaping Assessment District 88 for Fiscal Year 2009/10.

RECOMMENDATION: Adopt resolutions:

- 1. Ordering the Preparation and Filing of the Annual Engineer's Report for Landscaping Assessment District 88 for Fiscal Year 2009/10.
- 2. Stating the Intent of the City Council of the City of Fremont to Levy and Collect Assessments for Fremont Landscaping Assessment District 88 for Fiscal Year 2009/10.

*2.4 ON-CALL GEOTECHNICAL PEER REVIEW SERVICES CONTRACTS Award Contracts for On-Call Geotechnical Peer Review Services to Cotton, Shires & Associates, Inc., and Pacific Geotechnical Engineering

Contact Person:

Name:Diana CangcoNorm HughesTitle:Engineer IICity Engineer

Dept.: Community Development Community Development

Phone: 510-494-4733 510-494-4748

E-Mail: dcangco@fremont.gov nhughes@fremont.gov

Executive Summary: The purpose of this report is to recommend that City Council award separate contracts to Cotton, Shires & Associates, Inc. (CSA), and Pacific Geotechnical Engineering (PGE) for on-call geotechnical peer review services. The terms of each contract will specify a not-to-exceed amount of \$300,000 for three years. At the end of the three-year term, the City will have the option to renew each contract for two additional one-year terms with a not-to-exceed amount of \$100,000 per year, bringing the total potential contract amount up to \$500,000 per consultant for up to five years.

BACKGROUND: California State law and the Fremont Municipal Code require special geologic and geotechnical studies for development projects within certain areas of the City of Fremont. These studies assess hazards and recommend mitigations for projects within the Alquist-Priolo Earthquake Fault Zones or within Earthquake-Induced Landslide and Liquefaction areas of Seismic Hazard Zones. Special studies must be completed by registered geotechnical engineers or geologists. Registered geotechnical engineers or geologist must also review and approve these special studies. For over 20 years, the City of Fremont has used geotechnical peer review consultants to complete the review of reports because there are no registered geotechnical engineers or geologists on staff. The cost of peer reviews is paid for by the project applicants using a task order system. Since our existing service agreement is close to reaching the maximum contract compensation amount, awarding the new contracts will allow staff to continue the required peer review process for current and future development applications in special study zones.

Discussion: In December 2008, the City solicited proposals for On-Call Geotechnical Peer Review Services. A total of twelve proposals were received and evaluated by staff. Based on qualifications and experiences with municipal peer reviews, staff recommends that City Council award contracts for On-Call Geotechnical Peer Review Services to CSA and PGE in an amount not to exceed \$300,000 each for three years, with an option to renew each contract for two additional one-year terms, with a not-to-exceed amount of \$100,000 for each one-year term.

ENCLOSURE: None

RECOMMENDATIONS:

1. Authorize the City Manager or his designee to execute Master Service Agreements with Cotton, Shires & Associates, Inc., and Pacific Geotechnical Engineering for on-call geotechnical peer review services in an amount not to exceed \$300,000 for three years.

2.	Authorize the City Manager or his designee to exercise the option to renew each agreement, at an appropriate time, for up to two additional one-year terms with an amount not-to-exceed \$100,000 per one-year term, provided the City Manager or his designee determines that the consultant has been responsive to the City's needs and the quality of work has been satisfactory.

6.1	Report Out from Closed Session of Any Final Action

7.1 RAILROAD QUIET ZONE

Authorization to Proceed with Establishing a Railroad Quiet Zone at the Walnut Avenue Crossing

Contact Person:

Name: David Huynh Jim Pierson
Title: Senior Transportation Engineer Director

Dept.: Transportation and Operations Transportation and Operations

Phone: 510-494-4484 510-494-4722

E-Mail: dhuynh@fremont.gov jpierson@fremont.gov

Executive Summary: At the City Council's request, staff completed a Railroad Quiet Zone Feasibility Study and identified 11 highway-rail at-grade crossings in Fremont where one or more railroad quiet zones could be established. In February 2008, staff presented to the City Council a prioritized list of the 11 crossings in which quiet zones could be established. At that time, the City Council authorized staff to begin the process of establishing quiet zones at the Stevenson Boulevard and Nursery Avenue crossings based on available funding. In the course of this work, an opportunity has been identified to include the Walnut Avenue crossing. The Walnut Avenue crossing will be grouped with Stevenson Boulevard to form a single quiet zone consisting of these two crossings.

At the Walnut Avenue crossing, it is proposed to use a series of raised medians, which would be substantially less expensive than implementing a four-quadrant gate system to mitigate the silencing of the train horn as identified in the Feasibility Study. Establishing a quiet zone using the raised median is estimated to cost \$149,000, as compared to \$1.1 million for the four-quadrant gate system. Use of the raised medians would reduce vehicular access to right-in, right-out only access at the Walnut Avenue/Overacker Avenue intersection, located directly adjacent to this crossing. This improvement would substantially eliminate the opportunity for cars to bypass a down railroad gate at Walnut Avenue. Alternate access for left turn movements is available at the Walnut Avenue/Godfrey Street intersection approximately 725 feet away. It is recommended that the City Council authorize staff to include the Walnut Avenue crossing in the quiet zone establishment process for Stevenson Boulevard and Nursery Avenue and to transfer \$149,000 from 6091612 6431 (Risk Management General Liability fund) to 501 PWC 8604 to fund this work.

BACKGROUND: In 2007, staff made presentations to the City Council on Railroad Quiet Zones as part of staff's preparation of a Railroad Quiet Zone Feasibility Study. The first presentation included an overview of the Federal Rule (49 CFR Parts 222 and 229, Use of Locomotive Horns at Highway-Rail Grade Crossings) on the steps, process, and requirements of establishing a quiet zone and provided some background on the City's rail infrastructure. The presentation also covered the topic of safety and liability associated with establishing a quiet zone. The Council concurred with staff's recommendation that no individual highway-rail crossing be made less safe than it currently is (with the train horn sounding) if is to be included within an established quiet zone.

The second presentation introduced the potential establishment of five quiet zones covering 11 highway-rail grade crossings in the City, the recommended improvements (Supplemental Safety Measures) at each crossing to mitigate the elimination of the train horn, and the estimated cost of such an effort.

Discussion by the City Council indicated an overall desire to move forward with establishing quiet zones at the 11 crossings. However, due to the cost of such an effort (estimated at \$4.5 million in 2007 dollars and \$5.6 million in escalated dollars), it is not feasible for the City to fully fund this entire effort up front. As a result, a phasing plan to prioritize each crossing for inclusion into a quiet zone based on factors such as the level of impact to adjacent properties, cost of the improvements, and ease of implementation was established. In 2008, staff presented to the City Council a prioritized list of the 11 crossings in which a quiet zone(s) could be established. At that time, the City Council authorized staff to begin the process of establishing quiet zones at the Stevenson Boulevard and Nursery Avenue crossings.

Discussion: To assist staff in the process of establishing quiet zones at the Stevenson Boulevard and Nursery Avenue crossings, the City hired the consulting firm of RailPros, Inc. In the course of the work, RailPros advised staff of an opportunity to include the crossing at Walnut Avenue with the quiet zone being established at the Stevenson Boulevard crossing. The Walnut Avenue crossing is currently ranked last on the prioritized list of crossings and it was estimated to cost \$1.1 million to establish a quiet zone. Its low ranking is based on the relatively high cost of installing four-quadrant gates, as identified in the Feasibility Study, combined with the relatively low benefit (relatively low train volume and few adjacent properties impacted). Its low ranking is also due to the relatively longer and more complicated process that it would take because installing four-quadrant gates would require regulatory approval by the California Public Utilities Commission (CPUC) and multiple agreements to be executed with Union Pacific Railroad.

Due to the low risk index (a measure of the relative safety at a crossing) exhibited at both the Stevenson Boulevard and Walnut Avenue crossings and the pre-existing SSM (a raised median) at the Stevenson Boulevard crossing, it would be possible to establish a quiet zone to include both crossings without making additional safety improvements at the Walnut Avenue crossing. However, this approach would deviate from prior staff recommendation and the City Council's direction to make safety improvements at each crossing to mitigate the silencing of the train horn where a quiet zone is to be established. Thus, an alternate solution being proposed would be to install a series of raised medians at the Walnut Avenue crossing (see attached Exhibit) rather than installing four-quadrant gates, as originally called for in the Feasibility Study, to mitigate the silencing of the train horn.

The benefit of using raised medians, rather than the four-quadrant gate system, is the lower construction cost, no approval process required with the CPUC, and no agreement needed with UP. This alternate solution is estimated to cost \$149,000. A raised median is proposed to be installed along Walnut Avenue to close off an opening across Overacker Avenue. This would satisfy the goal of using a raised median as an SSM to deter vehicles from driving on the wrong side of the road to bypass a lowered crossing gate. A second raised median is proposed to be installed on Overacker that would force vehicles to make a right turn at the approach to Walnut Avenue. The goal of this median is to deter vehicles that exit Overacker from making a left turn onto Walnut using the opening at the crossing and thus bypass the gate. The installation of these medians would result in limiting vehicular access at the Walnut Avenue/Overacker Avenue intersection to a right-in, right-out access only. However, there is an alternate access point for left turn access to and from Overacker Avenue via the Godfrey Street intersection with Walnut Avenue, located approximately 725 feet west of Overacker Avenue.

The improvements using the raised medians as described would be categorized by the Federal Rule as a Modified SSM (one form of an Alternative Safety Measure, ASM). A Modified SSM is an SSM that is

not fully compliant with the requirements listed in the Federal Rule due to unique circumstances at a specific crossing. The proposed improvements will comply with the portion of the Federal Rule that requires a raised median to extend at least 100 feet from the crossing gate arms. However, the improvements do not comply with the portion of the requirements that all intersecting streets or driveways within 60 feet of the gate arm be closed or relocated. The improvements will restrict access at the Walnut Avenue/Overacker Avenue intersection to right-in, right-out only access but the intersection will remain open. The improvements will also not close access to the driveway to the residential development, located immediately adjacent to the gate arm on the upstream approach side. Even though this driveway remains open, since it is on the side of the street with the gate and there is a median barrier, cars exiting this driveway will not be able to bypass the gate. As a result of the above, the improvement would be classified as an ASM (by use of a modified SSM), rather than an SSM.

This minor deviation between using a Modified SSM rather than an SSM is highlighted because it has a large implication on the quiet zone establishment process. In order to establish a quiet zone using a Modified SSM (by claiming the safety enhancement of the Modified SSM), the City would need to go through the process of submitting an application to the Federal Railroad Administration (FRA). This can be a fairly lengthy process where the improvements must first be built, then a study initiated to determine and document the effectiveness of the improvements, the documented effectiveness must be submitted to the FRA for concurrence and approval, and the FRA would then run through the process of approving the City's application. In comparison, when using an SSM, the City can establish a quiet zone through the public authority designation without an application process with the FRA.

Due to this potentially lengthy and costly process, the City's approach will be to construct the median improvements (the Modified SSM), but will not claim any safety benefits of these improvements as part of the process of establishing a quiet zone. By not claiming the safety benefits of the Modified SSM, the City does not need to get FRA approval and thus can continue with the quiet zone establishment process using the public authority designation. As previously mentioned, the risk index at the Walnut Avenue crossing when combined with the Stevenson Boulevard crossing is low enough that a quiet zone can be established without the need to make additional safety improvements. However, staff feels strongly that the safety improvements, though not an SSM, should still be made at the Walnut Avenue crossing to mitigate the silencing of the train horn. This approach, while a slight deviation from our approach of using an SSM at all crossings within a quiet zone, remains consistent with previous staff recommendation and City Council concurrence that no crossing will be made less safe with the establishment of a quiet zone.

It is recommended that the City Council authorize staff to include the Walnut Avenue crossing with the current effort to establish a quiet zone at the Stevenson Boulevard crossing and at the Nursery Avenue crossing, following the requirements of the Federal Rule. Staff recommends transfering \$149,000 from the Risk Management General Liability fund (6091612 6431) to 501 PWC 8604 (Quiet Zone Study) to allow staff to begin the quiet zone establishment process for the Walnut Avenue crossing. This amount includes sufficient funding for staff time to administer the process, prepare the design plans for the improvements, and the construction cost of the raised medians. The Risk Manager has determined that sufficient funding exists in its General Liability fund for this purpose.

ENCLOSURE: Exhibit: Walnut Avenue Crossing Proposed Median Improvements

RECOMMENDATIONS:

- 1. Authorize staff to include the Walnut Avenue crossing into the process to establish quiet zones at the Stevenson Boulevard crossing and the Nursery Avenue crossing as described herein, following the requirements as established in 49 CFR Parts 222 and 229, Use of Locomotive Horns at Highway-Rail Grade Crossings.
- 2. Transfer \$149,000 from 6091612 6431 (Risk Management General Liability fund) and appropriate to 501 PWC 8604 (Quiet Zone Study).

- 8.1 Council Referrals None.
- **8.2** Oral Reports on Meetings and Events

ACRONYMS

ABAGAssociation of Bay Area Governments	FUSD Fremont Unified School District
ACCMAAlameda County Congestion	GIS Geographic Information System
Management Agency	GPAGeneral Plan Amendment
ACEAltamont Commuter Express	HARB Historical Architectural Review Board
ACFCDAlameda County Flood Control District	HBA Home Builders Association
ACTA Alameda County Transportation	HRC Human Relations Commission
Authority	ICMA International City/County Management
ACTIAAlameda County Transportation	Association
Improvement Authority	JPA Joint Powers Authority
ACWDAlameda County Water District	LLMD Lighting and Landscaping Maintenance
BAAQMD Bay Area Air Quality Management	District
District	LOCCLeague of California Cities
BARTBay Area Rapid Transit District	LOS Level of Service
BCDCBay Conservation & Development	MOU Memorandum of Understanding
Commission	MTC Metropolitan Transportation Commission
BMPsBest Management Practices	NEPA National Environmental Policy Act
BMRBelow Market Rate	NLC National League of Cities
CALPERS California Public Employees' Retirement	NPDES National Pollutant Discharge Elimination
System	System
CBDCentral Business District	NPO Neighborhood Preservation Ordinance
CDDCommunity Development Department	PC Planning Commission
CC & R's Covenants, Conditions & Restrictions	PD Planned District
CDBGCommunity Development Block Grant	PUCPublic Utilities Commission
CEQACalifornia Environmental Quality Act	PVAW Private Vehicle Accessway
CERTCommunity Emergency Response Team	PWCPublic Works Contract
CIPCapital Improvement Program	RDA Redevelopment Agency
CMACongestion Management Agency	RFP Request for Proposals
CNGCompressed Natural Gas	RFQRequest for Qualifications
COFCity of Fremont	RHNA Regional Housing Needs Allocation
COPPSCommunity Oriented Policing and Public	ROPRegional Occupational Program
Safety	RRIDRO Residential Rent Increase Dispute
CSACCalifornia State Association of Counties	Resolution Ordinance
CTCCalifornia Transportation Commission	RWQCB Regional Water Quality Control Board
dBDecibel	SACNET Southern Alameda County Narcotics
DEIRDraft Environmental Impact Report	Enforcement Task Force
DO Development Organization	SPAA Site Plan and Architectural Approval
DU/ACDwelling Units per Acre	STIP State Transportation Improvement
EBRPD East Bay Regional Park District	Program
EDAC Economic Development Advisory	TCRDF Tri-Cities Recycling and Disposal Facility
Commission (City)	T&O Transportation and Operations
EIREnvironmental Impact Report (CEQA)	Department Department
EIS Environmental Impact Statement (NEPA)	TOD Transit Oriented Development
ERAF Education Revenue Augmentation Fund	TS/MRF Transfer Station/Materials Recovery
EVAW Emergency Vehicle Accessway	Facility
FARFloor Area Ratio	UBC Uniform Building Code
FEMAFederal Emergency Management Agency	USD Union Sanitary District
FFDFremont Fire Department	VTA Santa Clara Valley Transportation
FMCFremont Municipal Code	Authority
FPDFremont Police Department	WMA Waste Management Authority
FRCFamily Resource Center	ZTAZoning Text Amendment
1 IX uning Resource Center	Z171 Zoming Text/Intendificult

UPCOMING MEETING AND CHANNEL 27 BROADCAST SCHEDULE

BRUADCASI SCHEDULE					
Date	Time	Meeting Type	Location	Cable Channel 27	
April 21, 2009	6:00 p.m.	Work Session	Council Chambers	Live	
April 28, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live	
May 4, 2009 (Monday)	4:00 p.m.	Joint City Council/FUSD Mtg.	Council Chambers	Live	
May 4, 2009 (Monday)	6:00 p.m.	Special Council Work Session	Council Chambers	Live	
May 5, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live	
May 12, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live	
May 19, 2009	6:00 p.m. 7:00 p.m.	Work Session; City Council Meeting	Council Chambers	Live	
May 26, 2009	6:00 p.m.	Special Council Work Session	Council Chambers	Live	
June 2, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live	
June 9, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live	
June 16, 2009	TBD	Work Session	Council Chambers	Live	
June 23, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live	
June 30, 2009 (5 th Tuesday)		No Meeting			
July 7, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live	
July 14, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live	
July 21, 2009	TBD	Work Session	Council Chambers	Live	
July 28, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live	
August		Council Recess			